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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,429	03/09/2004	J. Terry Riebling	JTRZ 2 00001-3-2	1872
27885	7590	07/27/2005	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			CLEMENT, MICHELLE RENEE	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,429

Applicant(s)

RIEBLING ET AL.

Examiner

Michelle (Shelley) Clement

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection as necessitated by applicant's amendment.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4 and 12 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not describe the device having (or how it is possible to have) a first lip extending from the periphery of the first assembly for sliding over and overlapping the outer surface of the other (second) assembly and further comprising a second lip extending around a portion of the periphery of the second assembly for overlapping the first assembly lip. Furthermore it is not clear how it would work for the second lip to overlap the first lip when it is required for the first lip to overlap the periphery of the second assembly.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Patterson (US Patent # 5,375,440). Patterson discloses a firearm safety device that can be used for a firearm (reference 24) having a frame a trigger and a trigger guard comprising, a first assembly (reference 16) that can be mounted to a first side of the trigger guard to prevent access to the trigger, a second assembly (reference 14) that can be mounted to a second side of the trigger guard opposite the first side and having the ability to be secured to the first assembly to prevent access to the trigger and a lip (reference 20) extending from and around a portion of the periphery of the first assembly that can slide over and overlap the outer surface of the other assembly as the first and second assemblies are pushed together towards opposite sides of the trigger guard for mounting to the firearm (Figure 2). The lip extends around the portions of the first assembly periphery not abutting the firearm when the first assembly is secured to the firearm (Figure 3). The device further comprising a second lip (reference 40) extending around a portion of the periphery of the second assembly that can overlap the first assembly lip when the first and second assemblies are secured together (in as much as applicant has disclosed the second lip in conjunction with the first lip). The device further comprising a lock (reference 54) for locking the first and second assemblies together. (It is noted that applicant has not differentiated structurally between the first and second assembly, therefore the claims combinations 1,5, 6 and 1,2, 3 are structurally identical. The structure of Patterson meets the limitations of both combinations merely by interchanging the label "first assembly" and "second assembly". It is further noted that the portion 20 meets the limitation of a lip extending over the periphery of 14 and portion 40 is a further or second lip extending over the first lip 20.)

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6. Claims 1, 2, 8, 9, 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Parry (US Patent # 3,637,180). Parry discloses a firearm safety device that can be used for a firearm (reference 12) having a frame a trigger and a trigger guard comprising, a first assembly (reference 16) that can be mounted to a first side of the trigger guard to prevent access to the trigger, a second assembly (reference 26) that can be mounted to a second side of the trigger guard opposite the first side and having the ability to be secured to the first assembly to prevent access to the trigger and a lip (reference 15 extending from and around a portion of the periphery of the first assembly that can slide over and overlap the outer surface of the other/second assembly as the first and second assemblies are pushed together towards opposite sides of the trigger guard for mounting to the firearm (Figure 3). The lip extends around the portions of the first assembly periphery not abutting the firearm when the first assembly is secured to the firearm (Figure 2). The first and second assembly each include a plurality of apertures (references 21-24 and 37-40 respectively) for receiving pins and includes a pin (references 41-44) having a first end having the ability to be received in one of the plurality of apertures in the first assembly and a second end having the ability to be received in one of the plurality of apertures in the second assembly, the pin extending into the apertures of the first and second assemblies as the first and second assemblies are pushed together towards opposite sides of the trigger guard (Figures 4 & 5).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weinraub (US Patent # 6,474,238), Fuller et al. (US Patent # 5,191,158).

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "McClure", located in the lower right quadrant of the page.